



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: HSQ Technology

File: B-279707

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DIGEST

Protester's proposal was properly excluded from the competitive range as not having a reasonable chance of being selected for award in view of agency's receipt of significantly higher-rated proposals; protester's proposal lacked information showing satisfaction of experience requirements by proposed key personnel even after agency requested, in two rounds of discussions, that the required information be provided.

DECISION

HSQ Technology protests the elimination of its proposal from the competitive range under request for proposals (RFP) No. N47408-97-R-1806, issued by the Naval Facilities Engineering Command for a supervisory control and data acquisition system to be known as the Pier Power Monitoring/Utility Control System. HSQ contends that the Navy misevaluated HSQ's proposal and improperly eliminated the proposal from the competitive range.

We deny the protest.

The RFP was issued on January 6, 1997 for a predominantly electrical system to be configured as a supervisory control and data acquisition (SCADA) system for the Naval Station in San Diego, California. The requirement is to provide, install, maintain, repair, replace, and test systems that will monitor, control, analyze, and provide historical and billing information for certain utility services. The RFP contemplated the award of an indefinite-delivery/indefinite-quantity contract with provisions for both fixed-price and cost-reimbursable pricing. Award was to be made on the basis of best value to the government.

The RFP set forth the following five general evaluation factors: technical; past performance; cost; subcontracting; and software license agreement. The technical

and past performance factors were stated to be of equal importance and their combined weight was significantly greater than that of cost. The technical evaluation factor included equally weighted subfactors, one of which was corporate management and key personnel. Offerors were required to assign their key personnel in their proposals and were not to make substitutions except in limited circumstances. In addition, offerors were instructed to provide a cross-reference list if the labor categories in their proposals did not directly match those set forth in the RFP.

The RFP listed the following six key personnel positions: project manager; superintendent/site manager; computer programmer; electronic technician; electrician; and controls technician. The solicitation specified the information that key personnel resumes were to include: the time period of applicable experience, the firm at which the experience was gained, a description of duties performed, and the level of responsibility that was held; it also specified required minimum qualifications for each key personnel position. In addition, offerors were required to submit past performance information for all ongoing contracts and all contracts completed within the last 3 years for electrical SCADA systems.

The agency received seven proposals, including HSQ's, by the closing date. A technical evaluation board (TEB) reviewed the initial proposals and determined that four of them, including HSQ's, were unacceptable as submitted but susceptible of being made acceptable, and therefore should be included in the competitive range.

HSQ's proposal received a rating of "unacceptable but capable" for the technical evaluation factor, and "poor" for the past performance factor, resulting in an overall rating of "unacceptable but capable of being made acceptable." Under the technical subfactor of corporate management and key personnel, the TEB was unable to determine whether HSQ's proposal satisfied the key personnel requirements, noting that HSQ had provided only starting dates for the proposed key personnel's association with the firm; most of the resumes did not include electrical SCADA projects, and those that did, failed to distinguish between electrical SCADA (for which the RFP specified a minimum requirement) and general SCADA experience. Regarding past performance, the TEB noted that HSQ had supplied only references that would provide good comments; however, evaluators contacted references connected with two other current HSQ government contracts of which they had knowledge, and received negative responses.

The Navy sent written discussion questions to the competitive range offerors. The five-page list of questions for HSQ included cost, past performance, and technical issues. Regarding the experience of proposed key personnel, the protester was requested to "[d]emonstrate that key personnel meet required experience in general and electrical SCADA." Eight questions addressed the issue of HSQ's past performance record, naming the two projects that the firm had not mentioned in its proposal, asking why they had not been included, and requested that HSQ provide

information demonstrating the results of any corrective action that had been taken in connection with deficiencies that references had identified in HSQ's performance.

HSQ submitted written responses for the discussion questions and revised its initial proposal by replacing certain sections entirely. In response to the key personnel questions, HSQ provided "additional highlights for each [proposed key personnel], which may not be apparent from [their] resumes." For computer programmers, HSQ noted first "TBD," apparently indicating that these personnel were yet to be determined, but included a list of six potential employees who were "most likely to be required and available for this work," also listing their experience. Regarding past performance, HSQ noted that the omission of the first of the two projects that the Navy raised was an oversight that resulted from the project's not having been completed at the time the proposal was prepared, and that the second project was not considered relevant, since it involved a heating/ventilation environmental controls project with no applicability to electrical SCADA systems. Regarding each of the past performance deficiencies, HSQ noted that it was unable to address statements by others regarding past performance issues that had not been communicated to the firm, but provided comments regarding each of the general points raised.

The TEB reviewed the offerors' responses to the discussion questions and concluded that the revised proposals of three offerors, including HSQ, were still unacceptable but susceptible of being made acceptable. The remaining proposal was eliminated from the competitive range. The TEB decided that the competitive range proposals all required additional clarification, but it was expected that every one of them could be made technically acceptable without a major rewrite.

The contracting officer advised HSQ by letter that its proposal remained within the competitive range, but that discussions were still in progress, and requested clarification or additional information regarding certain issues. HSQ was again permitted to revise its proposal. All but two of the technical factor issues were considered to meet the specifications. The two noted deficiencies involved compliance with a data module specification, and the experience of HSQ's proposed key personnel. For the latter, the request for additional clarification was as follows:

The information provided does not adequately demonstrate that key personnel meet the required general and electrical SCADA requirements. Please provide resumes which clearly demonstrate the time periods for the applicable experience and names and locations of the companies where the experience was gained.

HSQ responded by submitting additional information and diagrams for the data module issue, and six resumes which had been "revised to include the relevant experience and qualification information" in response to the key personnel experience issue. The six resumes that HSQ submitted were for the positions of

project manager, computer programmer, superintendent/site manager, electrician, controls technician, and electronic technician. Of these six, only the project manager was the same person who had been proposed in HSQ's previous proposal revision. The person proposed as site manager had been proposed in the initial proposal as electrician; the person now proposed as computer programmer had also been proposed for this position in the initial proposal, but had been replaced by four other employees in the first proposal revision. The persons now being proposed for the four remaining key positions were new. When the TEB reviewed this submission, it found that HSQ had failed to demonstrate that any of its key personnel met the RFP's specific experience requirements. In addition, the TEB considered that HSQ's initial poor past performance rating had not changed during the previous round of discussions, and that both of the other remaining competitive range proposals were more highly rated because they offered technically superior approaches. The TEB concluded that HSQ's proposal should therefore be excluded from the competitive range.

The contracting officer advised HSQ by letter of the rejection of its proposal. HSQ requested a debriefing, which was conducted in writing. In the debriefing letter, the Navy identified for HSQ the specific deficiencies it had found in the experience of each of the proposed key personnel, and answered questions that HSQ had raised. In summary, the contracting officer wrote:

As stated in the solicitation Technical and Past Performance were weighted equally. Your Past Performance evaluation was initially rated as poor and remained unchanged subsequent to your response to the Past Performance discussion issues. . . .

Based upon the foregoing information your proposal was determined not to be among the most highly rated offers being considered for award and was eliminated from the competitive range

This protest followed.

HSQ protests that its proposal's exclusion from the competitive range was improper, contending that the qualifications of its personnel as set forth on the submitted resumes meet both the requirements of the Navy and the requirements set forth in the RFP. More specifically, HSQ contends that in its evaluation of key personnel, the Navy did not evaluate the submitted resumes correctly in relation to the positions for which they were intended. In this regard, HSQ contends that, except for two positions, the Navy failed to evaluate the submitted resumes under the experience requirements for the positions for which the resumes were designated in HSQ's proposal. With regard to the materials HSQ submitted in response to the second round of discussion questions, HSQ argues, in effect, that it expected the Navy to continue to recognize the personnel proposed in its initial proposal for each of the key personnel positions, and states that the names and

resumes subsequently submitted were "provided in order to demonstrate HSQ's depth of personnel, not to substitute them for [the initially named persons]."

We find this argument without merit.

We will review an agency's technical evaluation of proposals to determine whether it was fair, reasonable and consistent with the stated evaluation criteria. Sandaire, B-242301, Apr. 12, 1991, 91-1 CPD ¶ 370 at 3. The technical evaluation of a proposal is based on information submitted in it, and an offeror runs the risk of having its proposal downgraded and rejected if the proposal submitted is inadequately written. Research Analysis and Maintenance, Inc., B-242836.4, Oct. 29, 1991, 91-2 CPD ¶ 387 at 5. Accordingly, to the extent that the protester is arguing that the evaluators did not understand the resumes and that the Navy could have resolved any questions in additional discussions, HSQ, like all offerors, was required to demonstrate the merits of its proposal within the four corners of the proposal and ran the risk of rejection if it failed to do so. Hornet Joint Venture, B-258430.2, Jan. 27, 1995, 95-1 CPD ¶ 55 at 7.

Here, the resumes provided in HSQ's second proposal revisions did not convey the information that HSQ asserts was intended. The additional resumes were clearly labeled with the exact positions for which the Navy evaluated them. Under the circumstances, there is nothing unreasonable in this aspect of the Navy's evaluation.

To the extent that HSQ asserts that the Navy should have evaluated its proposed staffing of those positions based upon the names that were initially submitted, the Navy had done so under its initial evaluation and had concluded that the corresponding resumes did not demonstrate that these personnel satisfied the RFP's experience requirements. The submission of additional names "to demonstrate HSQ's depth of personnel" could not reasonably be viewed as providing a basis for the TEB to revise this conclusion. Neither the initially submitted nor the subsequently submitted resumes directly responded to the requirement in the RFP and in discussion questions that specific types of experience be shown for the key positions for specified minimum periods of time. For example, the RFP included the following specific requirements for the position of project manager:

- 10 years experience managing projects related to utility systems
- 5 years project management experience for electrical SCADA systems
- successful management of at least one (1) project comparable in size and complexity to the PWC San Diego PPM/UCS Project.

In its initial proposal, the resume that HSQ submitted for its proposed project manager included a list of major projects in which the proposed employee had been involved, previous employment experience, and education. The only dates included in the resume were for educational degrees and the notation that the employee has been "associated with HSQ since 1989." In its response to the first round of written

discussion questions, HSQ submitted a paragraph about its proposed project manager, stating that he had "over thirty (30) years experience in business and contracts management in Government and private industry"; that he has "applied his training and experience to SCADA projects for Government customers" since joining HSQ in 1989; that he has completed three Corps of Engineers electric power generation SCADA projects successfully "[i]n the past several years," and additional narrative generally describing his abilities and experience.

In its response to the second round of discussion questions, HSQ provided an expanded resume for its proposed project manager but again failed to include information showing that his experience met the RFP requirements. The resume again states that the employee has "over thirty years experience in business and contracts management," but does not indicate whether he has the requisite 10 years experience managing projects related to utility systems, nor does it distinguish his experience in electrical SCADA systems to show whether his experience meets the requirement for 5 years of project management in this area. For each of the projects that are listed, the resume indicates the date of completion, but does not indicate the duration of the project, nor does it specifically identify the employee's role in the project. Each of the other key personnel resumes were similarly lacking in information. In these circumstances, where the RFP provided explicit instructions regarding the information that was required and the offeror failed to provide the requisite information in its initial proposal and failed to provide it after two rounds of discussions repeating the need for this information, the Navy reasonably concluded that the protester failed to demonstrate that its proposed key personnel met the RFP experience requirements. In short, the Navy's evaluation of HSQ's proposal under this factor was reasonable and consistent with the RFP terms.

In addition, we note that the Navy's determination to exclude HSQ's proposal from the competitive range was also based on the poor rating assigned to HSQ's past performance--an evaluation factor that was equal in weight to the technical evaluation factor that included key personnel as a subfactor under the RFP's evaluation scheme. HSQ did not protest this aspect of its evaluation.¹

¹Although HSQ requested a hearing for the purpose of "refuting certain aspects of the Administrative Record dealing with HSQ's prior performance on other projects," it did not do so until May 29, more than 3 weeks after it received the agency report. Even if we assume that HSQ's knowledge of this basis of protest arose from its review of the agency report (rather than from its debriefing), it had to be raised within 10 days of receipt of that report in order to be timely under our Bid Protest Regulations. 4 C.F.R. § 21.2(a)(2) (1998).

The stated basis for the exclusion of HSQ's proposal was the agency's determination that, overall, it was not among the most highly rated offers being considered for award. An agency may properly determine whether to include a proposal within the competitive range by comparing the proposal evaluation scores and the proposal's relative standing. A proposal that is technically acceptable need not be included in the competitive range when, relative to other acceptable offers, it is determined to have no reasonable chance of being selected for award. Coe-Truman Techs., Inc., B-257480, Sept. 12, 1994, 94-2 CPD ¶ 136 at 3. We will not disturb a determination to exclude a proposal from the competitive range unless the record indicates the determination was unreasonable. Intown Properties, Inc., B-250392, Jan. 28, 1993, 93-1 CPD ¶ 73 at 3. Here, the agency's determination was reasonably based on repeated deficiencies in the stated qualifications of HSQ's proposed key personnel, coupled with HSQ's poor past performance assessment. As a result, HSQ's proposal was downgraded to an extent that it did not have a reasonable chance of being selected for award because there were two other competitive range proposals that had received those higher ratings on the basis of proposing superior technical approaches. In these circumstances, the exclusion of HSQ's proposal is unobjectionable.

The protest is denied.

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